

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re:

Robert J St. Jacques

Debtor

Chapter 7

Case Number 19-30203

Honorable Elizabeth D. Katz

**MOTION OF WELLS FARGO BANK, N.A. FOR RELIEF FROM THE AUTOMATIC
STAY PURSUANT TO 11 U.S.C. § 362**

Wells Fargo Bank, N.A., a secured lien holder in the above captioned Chapter 7 proceeding, moves this court for an order, pursuant to 11 U.S.C. §362(d) and Rule 4001 of the Rules of Bankruptcy Procedure for relief from the automatic stay of 11 U.S.C. §362(a) so that it may foreclose a mortgage which it holds on real property known and numbered as 16 Georgetown Road, Ludlow, MA 01056 and commence a summary process action against occupants of the Property. In support of its motion, Wells Fargo Bank, N.A. states the following:

1. On October 16, 2012, Robert J St. Jacques executed a note to Embrace Home Loans, Inc. in the original principal amount of \$212,100.00 (the “Note”). The Note was subsequently endorsed in blank and transferred over to Movant (assignee).
2. The Note is secured by a mortgage from Robert J St. Jacques to Mortgage Electronic Registration Systems, Inc. dated October 16, 2012 and recorded with the Hampden County Registry of Deeds at Book 19504, Page 341, subsequently assigned to Wells Fargo Bank, NA by assignment dated October 13, 2016 and recorded in said Hampden County Registry of Deeds at Book 21398, Page 275. The Mortgage is a first mortgage on real property owned by the Debtor known and numbered as 16 Georgetown Road, Ludlow, MA 01056 (the “Property”).
3. Wells Fargo Bank, N.A. is the current holder of the Mortgage.
4. Wells Fargo Bank, N.A. is the current holder of the Note.

5. Wells Fargo Bank, N.A. services the loan on the property referenced in this Motion for Relief. In the event the automatic stay in this case is lifted/set aside, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Wells Fargo Bank, N.A.
6. Wells Fargo Bank, N.A. directly or through an agent, has possession of the promissory note. The promissory note is either made payable to Note-holder or has been duly endorsed.
7. On March 13, 2019, the Debtor filed a petition for relief under Chapter 7 of the United States Bankruptcy Code.
8. As of March 20, 2019, the Note and the Mortgage are in contractual default for the February 1, 2018, payment and all subsequent payments in the net total amount of \$19,950.43 plus reasonable attorney's fees and costs and other charges incurred prior to the filing of this motion.
9. There is no other collateral securing the obligation.
10. According to Debtor's Schedule A, the fair market value of the Property is \$193,409.00. Wells Fargo Bank, N.A. estimates that the liquidation value of the Property is no greater than \$181,804.46, which is the market value minus 6% for the cost of sale.
11. According to Schedule C, the Debtor is claiming an exemption in the Property in the amount of \$1,000.00 pursuant to Massachusetts General Laws c. 188 §§ 1, 4.
12. A Declaration of Homestead by Robert J. St. Jacques is dated July 30, 2004 and recorded with the Hampden County Registry of Deeds at Book 14378, Page 406.
13. As of March 20, 2019, the total outstanding balance owed on the Note was \$203,333.21.
14. As of March 20, 2019, the estimated amount of encumbrances on the Property is \$203,333.21.
15. Wells Fargo Bank, N.A. is not aware of any other liens on the Property.

16. Wells Fargo Bank, N.A. is entitled to relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(1) because the Debtor has not made payments pursuant to the Note and Mortgage.

17. Wells Fargo Bank, N.A. is entitled to relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(2) because the Debtor has no equity in the Property and the Property is not necessary for an effective reorganization.

WHEREFORE, Wells Fargo Bank, N.A. moves that the court enter an order granting Wells Fargo Bank, N.A. relief from the automatic stay pursuant to 11 U.S.C. §362(d) so that it, and its successors and assigns, may exercise its rights pursuant to the Note and Mortgage in accordance with applicable state and federal law, and may commence a summary process action against occupants of the Property. Wells Fargo Bank, N.A. moves that entry of the Order shall be effective immediately upon entry, notwithstanding the provisions of FRBP 4001(a)(3).

Wells Fargo Bank, N.A.
By its attorneys,

Date: April 17, 2019

Respectfully Submitted,

/s/ Craig B. Rule
Craig B. Rule, Esq. 569123
Orlans PC
Attorneys for Wells Fargo Bank, N.A.
PO Box 5041
Troy, MI 48007
(248) 502-1400
Email: bankruptcyNE@orlans.com
File Number: 19-003269